

§ 390.393

Act: *Provided*, that such information included in a proxy statement or offering circular filed pursuant to 12 CFR part 192 shall be reaffirmed in a registration statement under the Act on Form 10 filed with the OCC within 180 days of the association's conversion.

(c) For purposes of this section, the term "forward-looking statement" shall mean and shall be limited to:

(1) A statement containing a projection of revenues, income (loss), earnings (loss) per share, capital expenditures, dividends, capital structure, or other financial items;

(2) A statement of management's plans and objectives for future operations;

(3) A statement of future economic performance contained in management's discussion and analysis of financial condition and results of operations pursuant to item 303 of Regulation S-K; or

(4) A statement of the assumptions underlying or relating to any of the statements described in paragraph (c)(1), (2), or (3) of this section.

(d) For purposes of this section, the term "fraudulent statement" shall mean a statement which is an untrue statement of a material fact, a statement false or misleading with respect to any material fact, an omission to state a material fact necessary to make a statement not misleading, or which constitutes the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course of business, or an artifice to defraud, as those terms are used in the Securities Act of 1933 or the rules or regulations promulgated thereunder.

§ 390.393 Form and content of financial statements.

The financial statements required to be contained in filings with the FDIC under the Act are as set out in the applicable form and Regulation S-X, 17 CFR part 210. Those financial statements, however, shall conform as to form and content to the requirements of § 390.380.

12 CFR Ch. III (1–1–12 Edition)

§ 390.394 Interpretations related to SEC filings.

Sections 390.394 and 390.395 contain interpretations pertaining to the requirements of the Act and the rules and regulations thereunder as applied to State savings associations by the FDIC.

§ 390.395 Description of business.

(a) This section applies to the description-of-business portion of:

(1) Registration statements filed on Form 10 (item 1) (17 CFR 249.210),

(2) Proxy and information statements relating to mergers, consolidations, acquisitions, and similar matters (item 14 of Schedule 14A and item 1 of Schedule 14C) (17 CFR 240.14a–101 and 240.14c–101), and

(3) Annual reports filed on Form 10-K (item 7) (17 CFR 249.310).

(b) The description of business should conform to the description of business required by item 7 of Form PS under 12 CFR part 192.

(c) No repetitive disclosure is required by virtue of similar requirements in item 7 of Form PS and items 301 and 303 of Regulation S-K (17 CFR 229.301, 303). However, there should be included appropriate disclosure which arises by virtue of the registrant being a State savings association that is organized in stock form. For example, the table regarding return on equity and assets, item 7(d)(5), should include a line item for "dividend payout ratio (dividends declared per share divided by net income per share)."

Subpart V—Management Official Interlocks

§ 390.400 Authority, purpose, and scope.

(a) *Authority*. This subpart is issued under the provisions of the Federal Deposit Insurance Act, 12 U.S.C. 1819 (Tenth) and the Depository Institution Management Interlocks Act (Interlocks Act) (12 U.S.C. 3201 *et seq.*), as amended.

(b) *Purpose*. The purpose of the Interlocks Act and this subpart is to foster competition by generally prohibiting a management official from serving two nonaffiliated depository organizations